

AMENDED IN ASSEMBLY MAY 5, 2015

AMENDED IN ASSEMBLY MARCH 19, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 449

Introduced by Assembly Member Irwin
(Principal coauthor: Assembly Member Wilk)

(Principal coauthor: Senator Pavley)

(Coauthors: Assembly Members *Baker, Brown, Chávez,*
***Cristina Garcia, Jones, Maienschein, Steinorth, and Waldron*)**

(Principal coauthor: Senator Pavley)

(Coauthors: Senators Allen, Anderson, and Vidak)

February 23, 2015

An act to add *and repeal* Sections 17140.4 and 23711.4 ~~to~~ of the Revenue and Taxation Code, and to add *and repeal* Chapter 15 (commencing with Section 4875) ~~to~~ of Division 4.5 of the Welfare and Institutions Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 449, as amended, Irwin. Income taxation: savings plans: Qualified ABLE Program.

The Personal Income Tax Law and the Corporation ~~Income~~ Tax Law, in specified conformity with federal income tax laws regarding qualified tuition programs, provide that distributions from a qualified tuition program are generally not included in the income of the donor or the beneficiary, as specified.

Existing federal law, the Stephen Beck Jr., Achieving a Better Life Experience Act of 2014 ~~(ABLE) Act~~, (*ABLE Act*), for taxable years beginning on or after January 1, 2015, encourages and assists individuals

and families to save private funds for the purpose of supporting persons with disabilities to maintain their health, independence, and quality of life by excluding from gross income distributions used for qualified disability expenses by a beneficiary of a ~~qualified~~ *Qualified* ABLE ~~program~~ *Program* established and maintained by a state, as specified.

This bill ~~would~~ *would, for taxable years beginning on or after January 1, 2016, and before January 1, 2021,* conform to these federal income tax law provisions relating to the ABLE Act under the Personal Income Tax Law and the Corporation ~~Income~~ Tax Law, as provided. The bill would also establish in state government a ~~qualified~~ *Qualified* ABLE ~~program~~ *Program* and the Qualified ABLE Fund for purposes of implementing the federal ABLE Act. The bill would require the Treasurer to administer the program in compliance with the requirements of the federal ABLE Act. *This bill would repeal the Qualified ABLE Program as of January 1, 2022.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. It is the intent of the Legislature to further the
- 2 purposes of the federal Stephen Beck Jr., Achieving a Better Life
- 3 Experience Act to ensure that people with disabilities may save
- 4 for the future to achieve greater independence.
- 5 SEC. 2. This act shall be known, and may be cited, as the
- 6 California Achieving a Better Life Experience Act.
- 7 SEC. 3. Section 17140.4 is added to the Revenue and Taxation
- 8 Code, to read:
- 9 17140.4. *For taxable years beginning on or after January 1,*
- 10 *2016, and before January 1, 2021,* Section 529A of the Internal
- 11 Revenue Code, relating to qualified ABLE programs, ~~as enacted~~
- 12 ~~by Section 102 of~~ *added by Section 102 of Division B of Public*
- 13 *Law 113-295,* shall apply, except as otherwise provided.
- 14 (a) Section 529A of the Internal Revenue Code is modified as
- 15 follows:
- 16 (1) By substituting the phrase “under this part and Part 11
- 17 (commencing with Section 23001)” in lieu of the phrase “under
- 18 this subtitle.”
- 19 (2) By substituting “Article 2 (commencing with Section
- 20 23731)” in lieu of “Section 511.”

(b) A copy of the report required to be filed with the Secretary of the Treasury under ~~Section 529A(g) of the Internal Revenue Code~~ *529A(d) of the Internal Revenue Code, relating to reports*, shall be filed with the Franchise Tax Board at the same time and in the same manner as specified in that section.

(c) *This section shall remain in effect only until December 1, 2021, and as of that date is repealed.*

SEC. 4. Section 23711.4 is added to the Revenue and Taxation Code, to read:

23711.4. *For taxable years beginning on or after January 1, 2016, and before January 1, 2021, Section 529A of the Internal Revenue Code, relating to qualified ABLE programs, as enacted by Section 102 of added by Section 102 of Division B of Public Law 113-295, shall apply, except as otherwise provided.*

(a) Section 529A of the internal Revenue Code is modified as follows:

(1) By substituting the phrase “under Part 10 (commencing with Section 17001) and this part” in lieu of the phrase “under this subtitle.”

(2) By substituting “Article 2 (commencing with Section 23731)” in lieu of “Section 511.”

(b) A copy of the report required to be filed with the Secretary of the Treasury under ~~Section 529A(g) of the Internal Revenue Code~~ *529A(d) of the Internal revenue Code, relating to reports* shall be filed with the Franchise Tax Board at the same time and in the same manner as specified in that section.

(c) *This section shall remain in effect only until December 1, 2021, and as of that date is repealed.*

SEC. 5. Chapter 15 (commencing with Section 4875) is added to Division 4.5 of the Welfare and Institutions Code, to read:

CHAPTER 15. QUALIFIED ABLE PROGRAM

4875. For purposes of this chapter:

(a) “ABLE account” or “account” means the account an eligible individual makes contributions to pursuant to this chapter for the purpose of meeting the qualified disability expenses of the designated beneficiary of the account.

1 (b) “~~ABLE fund~~” *Fund*” or “fund” means the fund established
2 by this chapter for purposes of implementing the federal ABLE
3 Act.

4 (c) “Designated beneficiary” means the eligible individual who
5 established an ABLE account and is the owner of the account.

6 (d) “Eligible individual” means an individual who is eligible
7 under the program for a taxable year if during that taxable year
8 both of the following criteria are met:

9 (1) The individual is entitled to benefits based on blindness or
10 disability under Title II or XVI of the federal Social Security Act,
11 and that blindness or disability occurred before the date on which
12 the individual attained 26 years of age.

13 (2) A disability certification, as defined in the federal ABLE
14 Act, with respect to the individual is filed pursuant to the
15 requirements set forth in the federal ABLE Act.

16 (e) “Federal ABLE Act” means the federal Stephen Beck Jr.,
17 Achieving a Better Life Experience Act of 2014.

18 (f) “~~Qualified ABLE program~~” *Program*” or “program” means
19 the program established by this chapter to implement the federal
20 ABLE act pursuant to Section 529A of the Internal Revenue Code.

21 (g) “Qualified disability expenses” means any expenses related
22 to the eligible individual’s blindness or disability that are made
23 for the benefit of an eligible individual who is the designated
24 beneficiary, including expenses related to education, housing,
25 transportation, employment training and support, assistive
26 technology and personal support services, health, prevention and
27 wellness, financial management and administrative services, legal
28 fees, expenses for oversight and monitoring, funeral and burial
29 expenses, and other expenses, which are approved by the Secretary
30 of the Treasury under regulations and consistent with the purposes
31 of the federal ABLE Act.

32 4876. (a) There is hereby established in state government a
33 ~~qualified ABLE program~~ *Qualified ABLE Program* and the
34 Qualified ABLE Fund for purposes of implementing the federal
35 ABLE Act pursuant to Section 529A of the Internal Revenue Code.

36 (b) The ~~qualified ABLE program~~ *Qualified ABLE Program*
37 shall be administered by the Treasurer, who shall be responsible
38 for ensuring that the program is administered in compliance with
39 the requirements of the federal ABLE Act.

1 4877. Under the program, a person may make contributions
2 for a taxable year, for the benefit of an individual who is an eligible
3 individual for that taxable year, to an ABLE account that is
4 established for the purpose of meeting the qualified disability
5 expenses of the designated beneficiary of the account, if both of
6 the following criteria are met:

7 (a) The designated beneficiary is limited to one ABLE account
8 for purposes of this chapter.

9 (b) The ABLE account is established only for a designated
10 beneficiary who is a resident of this state.

11 4878. Notwithstanding any other law, ~~money in an ABLE~~
12 ~~account~~ *moneys in, contributions to, and any distribution for*
13 *qualified disability expenses from, an ABLE account, not to exceed*
14 *one hundred thousand dollars (\$100,000), shall not count towards*
15 *toward determining eligibility for a state or local means-tested*
16 *program.*

17 4879. (a) The Treasurer may adopt regulations to implement
18 this chapter.

19 (b) The Treasurer shall adopt regulations to track all ABLE
20 accounts in California.

21 4880. *This chapter shall remain in effect only until January 1,*
22 *2022, and as of that date is repealed, unless a later enacted statute,*
23 *that is enacted before January 1, 2022, deletes or extends that*
24 *date.*